



BILLING CODE 4510-26-P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA-2007-0083]

Applied Research Laboratories of South Florida, LLC: Application for Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the application of Applied Research Laboratories of South Florida, LLC, for recognition as a Nationally Recognized Testing Laboratory (NRTL) and presents the Agency's preliminary finding to grant this recognition.

DATES: Submit comments, information, and documents in response to this notice, or requests for an extension of time to make a submission, on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES:

Electronically: You may submit comments and attachments electronically at: <http://www.regulations.gov>, which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages, you may fax them to the OSHA Docket Office at (202) 693-1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit a copy of your comments and attachments to the OSHA Docket

Office, Docket No. OSHA-2007-0083, Occupational Safety and Health Administration, U.S. Department of Labor, Room N-3653, 200 Constitution Avenue NW, Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 10:00 a.m. to 3:00 p.m., E.T.

Instructions: All submissions must include the Agency name and OSHA docket number (OSHA-2007-0083) for the Information Collection Request (ICR). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at <http://www.regulations.gov>. For further information on submitting comments, see the "Public Participation" heading in the section of this notice titled SUPPLEMENTARY INFORMATION.

Docket: To read or download comments or other material in the docket, go to <http://www.regulations.gov> or the OSHA Docket Office at the above address. All documents in the docket (including this Federal Register notice) are listed in the <http://www.regulations.gov> index; however, some information (e.g., copyrighted material) is not publicly available to read or download through the website. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You may also contact Kevin Robinson at the address below to obtain a copy of the ICR.

Extension of comment period: Submit requests for an extension of the comment period on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** to the Office of Technical Programs and

Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N-3655, Washington, DC 20210, or by fax to (202) 693-1644.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor; phone: (202) 693-1999; email: meilinger.francis2@dol.gov.

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor; phone: (202) 693-2110 or email: robinson.kevin@dol.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Many of OSHA's workplace standards require that a NRTL test and certify certain types of equipment as safe for use in the workplace. NRTLs are independent laboratories that meet OSHA's requirements for performing safety testing and certification of products used in the workplace. To obtain and retain OSHA recognition, the NRTLs must meet the requirements in the NRTL Program regulations at 29 CFR 1910.7. More specifically, to be recognized by OSHA, an organization must: (1) have the appropriate capability to test, evaluate, and approve products to assure their safe use in the workplace; (2) be completely independent of employers subject to the tested equipment

requirements, and manufacturers and vendors of products for which OSHA requires certification; (3) have internal programs that ensure proper control of the testing and certification process; and (4) have effective reporting and complaint handling procedures. Recognition is an acknowledgement by OSHA that the NRTL has the capabilities to perform independent safety testing and certification of the specific products covered within the NRTL's scope of recognition and is not a delegation or grant of government authority. Recognition of a NRTL by OSHA also allows employers to use products certified by that NRTL to meet those OSHA standards that require product testing and certification.

The Agency processes applications for initial recognition following requirements in Appendix A of 29 CFR 1910.7. This appendix requires OSHA to publish two notices in the *Federal Register* in processing an application. In the first notice, OSHA announces the application, provides its preliminary finding, and solicits comments on its preliminary findings. In the second notice, the Agency provides its final decision on the application. These notices set forth the NRTL's scope of recognition.

II. Notice of the Application for Recognition

OSHA is providing notice that Applied Research Laboratories of South Florida, LLC, (ARL) is applying for recognition as a NRTL. According to its public information (see <http://www.arl-test.com>), ARL states that it is an internationally accredited testing laboratory. In its application, ARL lists the current address of its headquarters as: Applied Research Laboratories of South Florida, LLC, 5371 SW 161 Street, Miami, Florida 33014. OSHA has determined preliminarily that, with conditions, ARL has the capability to perform as a NRTL as outlined in 29 CFR 1910.7.

Each NRTL's scope of recognition has three elements: (1) the type of products the NRTL may test, with each type specified by its applicable test standard; (2) the recognized site(s) that have the technical capability to perform the product-testing and product-certification activities for the applicable test standards within the NRTL's scope of recognition; and (3) the supplemental program(s) that the NRTL may use, each of which allows the NRTL to rely on other parties to perform activities necessary for testing and certification. ARL applied on March 5, 2014, for initial recognition as a NRTL. In its initial application, ARL requested recognition for two test standards, one site, and two supplemental programs (OSHA-2007-0083-0050). This application was amended on December 1, 2014 to add one additional test standard (OSHA-2007-0083-0051).¹ The following sections set forth the requested scope of recognition included in ARL's application.

A. Standards Requested for Recognition

Table 1 below lists the appropriate test standards found within ARL's application for testing and certification of products under the NRTL Program.

Table 1

Proposed List of Appropriate Test Standards for Inclusion in

ARL's NRTL Scope of Recognition

Test Standard	Test Standard Title
UL 1995	Heating and Cooling Equipment

¹ ARL requested recognition for UL 1995, UL 1996, and UL 96. OSHA preliminarily denies ARL's UL 96 application. OSHA is, on the date of publication of the current notice in the Federal Register, also issuing a Federal Register notice proposing to remove UL 96 from OSHA's List of Appropriate Test Standards because UL 96 is not an appropriate test standard. That notice can be accessed via www.regulations.gov under Docket ID OSHA-2013-0012. Any member of the public objecting generally to the removal of UL 96 from the List of Appropriate Test Standards should submit comments to that effect pursuant to the instructions in that notice. Any member of the public objecting specifically to OSHA's preliminary rejection of ARL's request to include UL 96 in its scope of recognition should submit comments to that effect pursuant to the instructions in the current Notice.

Test Standard	Test Standard Title
UL 1996	Standard for Electric Duct Heaters

The test standards listed above may be approved as U.S. test standards by the American National Standards Institute (ANSI). However, for convenience, the Agency may use the designations of the standards-developing organization for the test standards instead of the ANSI designation. Under the NRTL Program's policy (see OSHA Instruction CPL 1-0.3, Appendix C, paragraph XIV), any NRTL recognized for a particular test standard may use either the proprietary version of the test standard or the ANSI version of that standard.

B. Sites Requested for Recognition

The current address of ARL's site included in its application for recognition as a NRTL is:

1. Applied Research Laboratories of South Florida, LLC, 5371 SW 161 Street, Miami, Florida 33014;

The NRTL Program requires that to be a recognized site, the site listed above must have the capability to conduct product testing in accordance with the appropriate test standard for the equipment or material being tested and certified.

C. Supplemental Programs

The supplemental programs listed in ARL's application for recognition as a NRTL include the following items:

Program 1: Basic Procedure. The basic program under which all product testing and evaluation is performed in-house by the NRTL that will certify the product.

Program 9: Acceptance of services other than testing or evaluation performed by subcontractors or agents (for calibration services only).

III. Preliminary Finding on the Application for Recognition as a NRTL

OSHA's NRTL Program recognition process involves a thorough analysis of a NRTL applicant's policies and procedures, and a comprehensive on-site review of the applicant's testing and certification activities to ensure that the applicant meets the requirements of 29 CFR 1910.7. OSHA staff performed a detailed analysis of ARL's application packet and reviewed other pertinent information. OSHA staff also performed three comprehensive on-site assessments of ARL's testing facilities, on February 25-26, 2015, March 30, 2016, and November 28-29, 2017. An overview of OSHA's assessment of the four requirements for recognition (i.e., capability, control procedures, independence, and credible reports and complaint handling) is provided below.

A. Capability

Section 1910.7(b)(1) states that, for each specified item of equipment or material to be listed, labeled, or accepted, the NRTL must have the capability (including proper testing equipment and facilities, trained staff, written testing procedures, and calibration and quality-control programs) to perform appropriate testing. OSHA staff performed a detailed analysis of ARL's application packet and reviewed other pertinent information to assess its capabilities to perform testing and certification activities. OSHA preliminarily determined that ARL has demonstrated these capabilities through the following:

- ARL facility has adequate test areas, energy sources, and procedures for controlling incompatible activities.
- ARL provided a detailed list of its testing equipment. Review of the application shows that the equipment listed is available and adequate for the standards for which it seeks recognition.

- ARL has detailed procedures for conducting testing, review, and evaluation, and for capturing the test and other data required by the test standards for which it seeks recognition.
- ARL has detailed procedures addressing the maintenance and calibration of equipment, and the types of records maintained for, or supporting laboratory activities.
- ARL has sufficient qualified personnel to perform the proposed scope of testing based on their education, training, technical knowledge, and experience.
- ARL has an adequate quality-control system in place to conduct internal audits, as well as track and resolve nonconformances.

OSHA's on-site assessments of ARL's facility confirmed the capabilities described in its application packet. The assessors found some non-conformances with the requirements of 29 CFR 1910.7. ARL addressed these issues sufficiently to meet the applicable NRTL requirements.

B. Control Procedures

Section 1910.7(b)(2) requires that the NRTL provide controls and services, to the extent necessary, for the particular equipment or material to be listed, labeled, or accepted. These controls and services include procedures for identifying the listed or labeled equipment or materials, inspections of production runs at factories to assure conformance with test standards, and field inspections to monitor and assure the proper use of identifying marks or labels. OSHA staff performed a detailed analysis of ARL's application packet and reviewed other pertinent information to assess its control procedures. OSHA preliminarily determined that ARL has demonstrated these capabilities through the following:

- ARL has a quality-control manual and detailed procedures to address the steps involved to list and certify products.
- ARL has a registered certification mark.
- ARL has certification procedures to address the authorization of certifications and audits of factory facilities. The audits apply to both the initial evaluations and the follow-up inspections of manufacturers' facilities.

OSHA's on-site assessment of ARL's facility confirmed the capabilities described in its application packet. The assessors found some non-conformances with the requirements of 29 CFR 1910.7. ARL addressed these issues sufficiently to meet the applicable NRTL requirements.

C. Independence

Section 1910.7(b)(3) requires that the NRTL be completely independent of employers that are subject to the testing requirements, and of any manufacturers or vendors of equipment or materials tested under the NRTL Program. OSHA has a policy for the independence of NRTLs that specifies the criteria used for determining whether an organization meets the above requirement (see OSHA Instruction CPL 1-0.3, Appendix C, paragraph V). This policy contains a non-exhaustive list of relationships that would cause an organization to fail to meet the specified criteria. OSHA staff performed a detailed analysis of ARL's application packet and reviewed other pertinent information to assess its independence. OSHA preliminarily determined that ARL has demonstrated independence through the following:

- ARL is a privately-owned organization, and OSHA found no information regarding ownership that would qualify as a conflict under OSHA's independence policy.

- ARL shows that it has none of the relationships described in OSHA's independence policy or any other relationship that could subject it to undue influence when testing for product safety.

D. Credible Reports and Complaint Handling

Section 1910.7(b)(4) specifies that a NRTL must maintain effective procedures for producing credible findings and reports that are objective and free of bias. The NRTL must also have procedures for handling complaints and disputes under a fair and reasonable system. OSHA staff performed a detailed analysis of ARL's application packet and reviewed other pertinent information to assess its ability to produce credible results and handle complaints. OSHA preliminarily determined that ARL has demonstrated these capabilities through the following:

- ARL has detailed procedures describing the content of test reports, and other detailed procedures describing the preparation and approval of these reports.
- ARL has procedures for recording, analyzing, and processing complaints from users, manufacturers, and other parties in a fair manner.

OSHA's on-site assessments of ARL's facilities confirmed the capabilities described in its application packet. The assessors found some non-conformances with the requirements of 29 CFR 1910.7. ARL addressed these issues sufficiently to meet the applicable NRTL requirements.

OSHA's review of the application file and pertinent documentation, as well as the results of the on-site assessments, indicate that ARL can meet the requirements prescribed by 29 CFR 1910.7 for recognition as a Nationally Recognized Testing

Laboratory for its site located in Miami, Florida, with the condition that ARL agree to increased OSHA oversight of its operations including:

- More frequent on-site assessments of ARL facilities;
- ARL providing OSHA with periodic reports listing the products that have been certified under the NRTL Program; and
- Confirmation from ARL that products with ARL Listings (non-NRTL) will undergo re-evaluation and re-testing and/or a thorough documented review of previously gathered evaluation and testing results prior to NRTL certification.

OSHA's preliminary finding does not constitute an interim or temporary approval of ARL's application.

OSHA welcomes public comment as to whether ARL meets the requirements of 29 CFR 1910.7 for recognition as a NRTL. Comments should consist of pertinent written documents and exhibits. Commenters needing more time to comment must submit a request in writing, stating the reasons for the request, for an extension by the due date for comments. OSHA will limit any extension to 10 days unless the requester justifies a longer time period. OSHA may deny a request for an extension if it is not adequately justified. To obtain or review copies of the exhibits identified in this notice, as well as comments submitted to the docket, contact the Docket Office, Room N-3653, Occupational Safety and Health Administration, U.S. Department of Labor, at the above address. These materials also are available online at <http://www.regulations.gov> under Docket No. OSHA-2007-0083.

OSHA staff will review all comments submitted to the docket in a timely manner and, after addressing the issues raised by these comments, will make a recommendation to the

Assistant Secretary for Occupational Safety and Health regarding ARL's application for recognition as a NRTL. The Assistant Secretary will make the final decision on granting the application. In making this decision, the Assistant Secretary may undertake other proceedings prescribed in Appendix A to 29 CFR 1910.7.

OSHA will publish a public notice of this final decision in the *Federal Register*.

IV. Authority and Signature

Loren Sweatt, Deputy Assistant Secretary of Labor for Occupational Safety and Health, authorized the preparation of this notice. Accordingly, the Agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 1-2012 (77 FR 3912, Jan. 25, 2012), and 29 CFR 1910.7.

Signed at Washington, DC, on February 16, 2018.

Loren Sweatt,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

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